

CHAPTER 10

EXCLUSION, INCLUSION, AND POLITICAL INSTITUTIONS

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1 THE POLITICAL ORDER

Institutions are indispensable. People cannot live together under complete randomness or Hobbesian disorder. “An institution,” March and Olsen (Ch. 1) tell us, “is a relatively enduring collection of rules and organized practices, embedded in structures of meaning and resources that are relatively invariant in the face of turnover of individuals and relatively resilient to the idiosyncratic preferences of individuals and changing external circumstances.”

The very meaning of “institution” is that values are settled within it (Selznick 1967). Other values that impose strain are repelled or excluded. “Inclusion-and-exclusion” is the name we give this problem. As a concept in political science, it is not well enough known to have a formal name or distinctive literature, although such a tradition does exist in sociology (Gamson 1969). But the themes of inclusion and exclusion reference several different literatures in this chapter.

Institutions are excellent at exclusion and poor at inclusion. Vast political trouble hangs upon that fact. All states are administrative, and the study of “inclusion” and “exclusion” is critically about the choices that are made by persons exercising some administrative authority or some judicial authority at a “lower” or operational level. Precisely because institutions embody “settled values,” they must exclude or greatly disadvantage those who wish to unsettle the status quo.

Because institutions define “a way of life” they sometimes are deeply insulated from stimuli with which they are unfamiliar. More concretely, institutional elites often fail to accommodate change because they cannot recognize it or when cognizant of it cannot imagine an alternative state of affairs than the present one from which all of their perquisites flow. Just instrumentally, institutions often contain so many impediments to receiving and processing information that is either unfamiliar or which signals events that are accorded very low probability that disaster is unavoidable. In the case of bureaucracies, Pearl Harbor (Wohlstetter 1962), 9/11 (US National Commission 2004), and the collapse of New Orleans are decisive examples. Institutions, in sum, have tendencies toward closure from their environment and from new information. That is inherently part of what makes them institutions.

The institutional tendency toward closure is troubling, notably when conflict concerns social demand. Unless issues of that type can be resolved in civil society, they will reappear as challenges within institutions. They may be so severe that, like social hurricanes, they simply overwhelm institutions. They may be incorporated in institutions in some form. And sometimes institutions may have a momentary capacity for inclusionary decision, when driven by other intense needs. Such instances may be reflected in events in the US Congress in 1964 and 1965 when two landmark pieces of civil rights legislation were passed after seven decades of extraordinary resistance. But institutions also have the capacity, sometimes, for exclusionary decisions, to get rid of some who are present (Ranki 1999). The elimination of African Americans from the political process in the southern states after the reconstruction period following the civil war may serve as an example.

As a matter of time and convenience, this chapter will omit some institutions that, in principle, are worth analysis, for example, the executive and the courts.

2 GETTING TO INCLUSION: THE HYPOTHESIS OF THE COUNTER-ATTACK

Once inclusion is attained, sequential problems of institutional adaptation follow. Interesting as these issues are, my main focus is on how groups get to inclusion. For

any group, the minimal condition of “inclusion” is getting to inclusion, or getting to the point at which it need not worry about being forced out altogether. I assert, subject to testing, the hypothesis of the counter-attack, that is social change driven by, or on behalf of, groups (interests) from the outside can only be achieved by the defeat of others that are already incorporated within the institutions.

Attempts at inclusion generate two types of response: the counter-attack and entrapment. Counter-attack (or counter-mobilization) is to be expected in politics as it is in military engagement. When an initial defeat occurs, at least some members of the losing side will continue to assert their position and try to reverse the outcome. They do not recede merely because of defeat. Nor are they dissuaded because they are extreme. Some members of the losing side may go into psychological exile abandoning politics altogether. Some may go into physical exile, never to return. But others will be galvanized to continue the struggle.

Some, of course, will make pragmatic adaptations, accepting what they cannot overcome. Others may actually be converted. But there is a hard-core residue. They may chatter incessantly to the boredom or amusements of others who think them fanatics. Or they may seethe in silence, expressing their views only within circles where they are completely comfortable. If opportunity presents itself, they will re-emerge and, if possible, revert to as much of the status quo ante as they can. Sometimes they will be more successful than any realist a short time before would have imagined.

Another possible outcome is entrapment. Entrapment is an outcome of minimal inclusion whereby the premise of a democratic commitment to state and society is accepted (Dryzek 1996). As Dryzek notes (1996: 475–87): “Once universal adult citizenship rights have been secured in a society, democratization is mostly a matter of the more authentic political inclusion of different groups and categories, for which formal political equality can hide continued exclusion or oppression.” Dryzek observes, however, that symbolic inclusion is easier to achieve than genuine inclusion. Acceptance of the former means abiding by the terms of commitment to constitutional processes which in turn means entrapment within a system hostile to a group’s real inclusion.

3 CURRENT POLITICAL SCIENCE AND THE DOUBLE PROBLEM OF INCLUSION AND EXCLUSION

Two notable forms of group classification around which struggles about inclusion-and-exclusion take place are gender and ethnicity, in the broad sense to include race. In contemporary literature on political institutions, “inclusion” belongs

chiefly to the political science of “democracy” (Dahl 1998, 2005: 187–97; Dryzek 1996). Dahl has specified the institutions that are essential for large-scale democracy: elected officials; free, fair, and frequent elections; freedom of expression; access to alternative sources of information; and associational autonomy. In addition to these, he specifies “inclusive citizenship” by which “no adult permanently resident in the country and subject to its laws can be denied the rights that are available to others” (Dahl 2005: 189).

3.1 What is inclusion?

The problem of inclusion and exclusion can be understood partly in the classical democratic theoretic issue of “majorities” and “minorities.” That assumes membership in the polity and is merely about the terms of decision and the terms of veto. In creating institutions, people who are going to live within them need a substantial degree of understanding as to who are accepted as members, who are acceptable aliens (some metics in ancient Athens or green card holders in the United States), and who are merely there as convenient people. Some people will have lower status than that, and may have no rights at all.

The category of persons who may potentially become officeholders (let us call it the “reservoir”) must be defined, along with the recruitment rules for choosing persons from the reservoir from time to time. There must be some rules or understandings governing the decision process, if officeholders are not to be granted full and dictatorial powers to do whatever they may think is right. There must be substantive output rules (policy rules) as to what those holding office may do, may not do, and must do. And there must be some rules for changing the rules. Perfect inclusion is inclusion in every step of the process. Perfect exclusion is to be present at no step of the process.

In the formal sense, the basic right is the right to vote. But there are other rights and capacities that are important. The right to speak your piece, and thus gratify yourself and sometimes influence others, is vital. So is the right to earn some money and keep it, or to use it any legal way, and so is the capacity to participate in influencing the choices that are put before others. In declining order from the public to private, there is access to the vote, access to political roles beyond the vote, access to some social benefits, access to equality of social benefits as good as anyone else gets, and even access to treatment for special needs.

Political scientists have discussed electoral mechanisms in their full range and variety of forms as to how they affect inclusion and exclusion in terms of conferring advantage and, conversely, disadvantage. Inclusion begins with enfranchisement. But electoral mechanisms themselves have known effects. Those mechanisms that enhance the likelihood of female and minority representation are critical tools of potential inclusion. But electoral mechanisms equally can be used as tools to exclude as well.

3.2 Election Rules

As a general matter, the rules governing elections and the modalities of representation are frequently contentious and in play for “reform.” To an unusual degree, and perhaps uniquely, politicians in the United States (state legislatures) have the power to define both legislative districts at the state level as well as those for the US House of Representatives. It is not surprising that once party politicians have the power to define districts—which because states often have divided government they do not always do—they will exercise that power to enhance their party’s position. Sometimes they can do this by stacking the other party’s constituents into a few districts which may facilitate, ironically, both greater minority representation and lessened minority influence over policy. Computer technology has made the art of the gerrymander into a science.

3.3 Election Types and Inclusion/Exclusion

3.3.1 *Run-off Elections*

Run-off elections force an electoral majority behind a single candidate. This electoral form typically disadvantages minorities who are seeking inclusion when that status is contested by the majority. Normally, in a single seat winner-take-all election, the requirement of a majority may be said to be more representative of voters’ preferences than a pure first-past-the post plurality requirement inasmuch as it induces to a delayed form of agreement voting. However, the requirement of an electoral majority also diminishes opportunities for minority candidates in majority-dominant constituencies, at least to the extent that inclusion issues remain.

3.3.2 *At-large Versus Single Member Districts*

James Madison, whom some designate “the Father of the Constitution” (Brant 1950) was surely a crucial participant in the initial shaping of American political institutions. Madison argued, in *Federalist* 10 that the broader the territorial compass the more that would be likely to engender diverse factions (or in contemporary language, diverse interests. Actual results depend upon the composition of the at-large constituency, but unless the at-large electoral unit also has proportional representation, it is more likely to represent concentrated minorities than voting by district, other things being equal.

3.3.3 *Descriptive and substantive representation*

What difference does it make if an elected representative is of a given gender or ethnic-racial background? This has perhaps not been settled in empirical analysis of the many countries with some kind of multi-ethnic or multi-racial composition. It is highly contested in political science research in the United States. We should contrast the work of Carol Swain, who contends that white legislators can represent black constituents' interests as well as blacks (Swain 1995), and Kenny Whitby whose data seem to reveal a distinctiveness in what black representatives of black constituencies do (Whitby 1997).

Obviously, one answer to that question is that it depends on the characteristics of the officeholder's party and the nature of the electing or selecting constituency. The nature of the constituency, in turn, depends on the sharpness of the cleavages separating the interests of the officeholder's ethnic group from the interests of other constituencies. To put it more directly, can someone be elected from a constituency not dominated by her or his ethnic group?

Gender, in contrast to some racial and ethnic characteristics, has one essential difference. Male and female populations cannot be physically separated on a continuing basis. Nor does conflict reduce itself to the same kinds or degrees of violence that racial and ethnic conflict sometimes do. Political scientists do differ as to whether gender makes a significant substantive difference by itself, even though some issues clearly affect women more than men. The question is also posed as to whether more critical differences are intra-gender, that is whether women are married and not in the work force or single and in the work force and, especially, their race. Issues of representation around gender appear to be largely ones of descriptive representation in that greater female representation can be added to the reservoir of officeholders.

Both gender and racial/ethnic representation, broadly speaking, may be different over time and across societies. In societies based upon large-scale and rapid incorporation of different population streams, the issues can be very severe. Whether a candidate for elected office is of Italian, Irish, Anglo, or Germanic descent is these days of little matter. But that was not always so when differences between various European descended populations were much greater. There is, however, great demand for representation directly by members of ethnic groups whose inclusion status is still in doubt, mainly people of non-European origin.

However, whether greater direct representation means equivalent substantive representation is unclear at the very least. As representation in the elite reservoir increases, it is likely that this increase will require minority ethnic representatives to represent more heterogeneous constituencies. Assuming the operation of the "electoral connection" in district based elections, minority representatives in more diverse constituencies are unlikely to afford to be minority representatives as substantively as their peers in more minority dense districts.

Redistricting, which has been mentioned, also plays a role in potentially increasing the minority elite reservoir while possibly limiting the substantive representation of minorities. Redistricting allows for stacking and concentrating minorities into safe districts (almost always the party of the left), but more districts are likely to be constituted in a way that produces more representatives who are likely to be less favorably inclined toward minorities' policy preferences. And, to some extent, these policy preferences may differ across minorities. But it is likely that when one speaks of minorities whose inclusion status is in question, one is also speaking about class. Not exclusively, of course, but, nonetheless, significantly. In any event, it is clear that the relationship between descriptive and substantive representation remains to be explored, particularly in the context of different electoral and representational systems.

3.3.4 *Proportional representation systems*

Proportional representation (PR) systems facilitate the representation of minorities because they encourage minorities to create their own parties if they feel underrepresented in the larger ones. (In Israel, for example, there had been a party whose constituency was almost exclusively drawn from Russian immigrants.) The costs of new party entry into the political marketplace are lower than in single member district systems. To keep groups from straying, larger parties may seek to place candidates on the party list who reflect minority party constituencies. Ultimately, though, who becomes an elected officeholder depends upon positioning on the party list. Further, given the party discipline prevalent in PR systems, representation in parliament is inevitably more descriptive or symbolic than substantive.

3.3.5 *Inclusion and coalition-building*

Some literature on inclusion starts from the unspoken predicate that the newest ethnic minority will be unable to exert sufficient pressure by itself. Therefore, the question is whether it can find others with compatible interest. In the United States, the newest version of this concerns African Americans and Latinos in American cities.

Contemporary political science takes for granted that political agreement is called for. Accordingly, it focuses upon the various means of representation, especially representation in assemblies (or legislative bodies). Canon concludes:

While the racial divide in the United States is not so severe as racial or ethnic divisions in South Africa, the former Yugoslavia, India, or many other nations, American political scientists (and citizens) who are interested in helping bridge the racial divide can learn from the competitive experience (Canon 1999: 373).

Karen M. Kaufmann treats the problem of inclusion, in the context of Latino entry into the political arena. Her focus is on mass attitudes and the propensity of blacks and Latinos to build electoral coalitions. Using recent public opinion data, Kaufmann's research explores the levels of perceived commonality between blacks and Latinos and, in particular, it studies the process by which Latinos come to feel close to African-Americans. Her findings suggest that pan-Latino affinity is a robust predictor of Latino/black commonality, but that long-term Latino political acculturation, in its current form, is unlikely to result in particularly high levels of closeness to blacks.

The conclusion of the article points to the important role that Latino leadership and political organizations play in promoting strong pan-ethnic identities and suggests that the prospects for future coalitions between African-Americans and Latinos rest, in part, on the development of these more inclusive Latino orientations.

Bickford (1999: 86–108) seeks to merge pluralist theories of unequal groups and identity politics. The objective is to analyze “the institutional representation of disadvantaged groups.” Bickford says theorists can neither treat group identity as fixed, nor dismiss “identity politics.” She makes reference to Guinier's (1994) model as encouraging coalitions between groups, and as having the potential to engender citizen action beyond the electoral moment. Other approaches pertinent to inclusion, in their use of pluralism, include Bohman (1995), Keller (1988), Olson (1988), Fraga (1999), and Kim and Lee (2001: 631–7), McClure (1990: 361–91), Levite and Tarrow 1983).

Laura Scalia (1998: 49–376) offers a stimulating critique of the ideological basis of racial exclusion. She does so by examining a sample of state constitutional conventions held during the first half of the nineteenth century. The author focuses on speeches therein that deal with questions of who should participate in leader selection. Debates over how far to empower freemen of African descent verify recent studies which argue that ethnocentric language rationalized political exclusions. In debates over white empowerment, however, those arguing to restrict citizen privileges unequivocally used the language of liberalism to make their case. Nineteenth-century liberalism was not just the language of greater empowerment and inclusion. It was dynamic enough to serve as the language of exclusion as well.

Haggard and Kaufman (1997: 263–83) adapt Dankwart A. Rustow's emphasis on elite bargaining to offer a “theory of democratic transitions [that] focuses on the way economic performance affects constitutional rules, political alignments, and institutions.” It can be extended to explain the policy challenges facing new democratic governments and the prospects for consolidation.

Ranki (1999) is one of the few authors to combine inclusion and exclusion in one analysis. What is impressive for its clue to deep research is the demonstration that inclusion is not, in and of itself, inherently irreversible. The conditions may have

been special. But the phenomenon is that the Jewish population of Hungary had moved increasingly into a condition of inclusion and acceptance, then to the reversal and being ground up in the history of a brutal exclusion, near the end of a war, when it was no longer necessary for Hungary's rulers to do what they did.

4 DIFFERENT INSTITUTIONS DEAL DIFFERENTLY WITH INCLUSION/EXCLUSION

Comparable institutions do not necessarily deal with the problem of inclusion/exclusion in the same way, although under the logic of institutional analysis there should be similar outcomes. Parties, for example, do not welcome all voters, but only those voters whose attachments will not disturb their existing internal balance (Holden 1966.)

Some institutions are almost inherently exclusionary. The police and the military are both such, unless what they are to control has no distinction between the dominant and the subordinate parts of the population. But where ethnic diversity is a part of domination and subordination, ethnic difference is immediately apparent in the results of administrative practice. (Holden 1996: chapter 8).

There can be, of course, institutions that operate at least some of the time on an inclusive basis. This was true, under one set of circumstances, when the Department of Justice began to make the legal argument for the equality of black persons and white persons under the United States Constitution (McMahon 2004.) The same Department of Justice, in the same period of time, would not take action, requested by the War Department, against local law officials who victimized African American soldiers in uniform (Gibson 2005: 200–1; and Novkov, email communication, retained in author's electronic file, October 14, 2005).

The design of the United States executive (the Presidency) in theory, is to represent “the whole people,” but after a vote there is no mechanism by which any interest that wants even to be “heard” can assure that it is “heard.”

We postpone until below, a closer analysis of two institutions (legislature and federalism) and two significant groups with whom the problem of getting to inclusion has already been faced. The legislature is the vehicle by which, in theory, everyone has some representative, at least if the design is right. But complete exclusion is when any group (or potential interest) has no actual standing in any institution in the legislature.

Congress is the means by which one group shields itself from the demands of the other that the lesser side can only wallow in discouragement or explode in rage. In short, the legislative process may become a form of dictatorship by group A over group B.

5 DOMINANT GROUPS AND SUBORDINATE GROUPS

The logic of power is that dominant groups respond to different new interests differently. It is logically possible, therefore, for “inside” groups to look at “outside” groups from one of the following perspectives:

1. Dominant groups can be in a position where they can decide everything that is to be decided. The “others” are vassals or slaves over whom they can exercise prerogatives as they please.
2. They can act as if they were “fiduciaries” and the “outside” groups were “wards” in whose best interest they should act.
3. They could act as very strong allies (or even patrons), in aid of some client.
4. They could adopt something like the same role in relation to an outside weak ally, from whose presence they need something besides moral verification.
5. They could act as political entrepreneurs in search of new partners.
6. Finally, they could act as trading partners, knowing that the others also have wide freedom, but with the aim of establishing continuing “special relationship” friendships, and comradeships that are not purely utilitarian. By the time that happens, inclusion is a fact.

Correlatively, the outside party must also see what role it is to adopt. Inclusion may also mean, even if one is not an exploitable resource, being a ward or client of someone more important. There is perhaps no distinction between the ward and the client except that the former is in a dependent (and protected) status with little effort to get there, whereas the client may be the person who has made some effort. Depending on the time or place, the individual who was neither a ward nor client, even in twentieth-century America, could have trouble being accepted.

Historically, there have been at least four major points of inclusion-and-exclusion. Class/caste divisions have expressed the predicate that some groups were entitled to rule, and would rule, and that was that. Caste politics is not irrelevant, but does not preclude some kind of overt political participation in the

largest democracy in the world, India (Hasan, Sridharan, and Sudarshan 2005; Jain 1997: 198–208; Lijphart 1996: 258–68).

Class, at any rate, is not irrelevant and shows up in bold divisions between those who own and those who do not (Im 1987: 231–57). Religion has been the second big identifier of those who are “in” and those who are “out.” It has been, and obviously remains, a profound source of social division. But such social division, in the countries to which political science has paid close attention, is not that of preemptory exclusion, but of a variety of forms of discrimination. There have been times, even in such a country as Canada, with a reputation for moderation, when religion combined with class made representative government inert. (Gunn 1966: 185–6.)

The criterion that, in principle, is easy to change, but can be highly exclusionary, is religion. The question is whether A is a member of a valid religious community is not made easier by the fact that, under the United States Constitution, Congress shall make no law respecting an establishment of religion. As of 1787, the principle did not extend to the states: “Maryland and Massachusetts required a belief in the Christian religion.” The same source says “Georgia, New Hampshire, New Jersey, and North Carolina had Protestant tests.” Delaware required “faith in God the Father, and in Jesus Christ, His only Son, and in the Holy Ghost, One God, blessed forever more” (Stokes and Feffer 1964: 37). It is obvious that such tests would have been either exclusionary or negated, by non-enforcement. Even if there are no formal legal tests, it is obvious that a variety of religious tests exist in civil society, and that Muslim populations especially have become the foci of extraordinarily intense issues.

6 THE LEGISLATIVE INSTITUTION

6.1 Two Cases of Inclusion-and-Exclusion and Their Handling in Congress

There are innumerable cases of inclusion-and-exclusion in human history, including a large number in the contemporary world. Wherever there are situations of high exclusion, political scientists, from their own analytical first principles, must predict that a change from “outsider” status to some degree of inclusion will only come after a protracted struggle. But we first present an historically oriented account of two situations of high exclusion (gender, the status of women and “race,” or the status of persons of African ancestry in the United States).

The cases, though historically connected, are different in crucial ways. But they are analytically similar in that the leaders of each deemed it necessary to go well beyond ordinary boundaries for tactics of public relations and self-abnegation that elicited the horror and repulsion of other public elites (Clift 2003: 113–54).

6.2 Case 1: Gender—A Case of Delay and Fitful Inclusion

Chowdbury and Nelson say that “political systems, whatever the ideology, form, and mobilization capacity, rest on the virtual exclusion of women from formal politics” (Chowdbury and Nelson 1994: 15.) This subject appears, in fact, both simple and at the same time complex. For present purposes, I ground myself in the review essay by Nancy Burns (2002: 462–87) which, in turn, is crucially grounded in work by Marianne Githens (1983) almost two decades earlier and by Virginia Sapiro (1983). “Gender is a repertoire of mechanisms that provide social interpretations of sex, that enable sex to structure people’s lives” (Burns 2002: 463.) It is (in Burns’s formulation) a “principle of social organization [or] hierarchy” (Burns 2002: 464.)

In most places in the world, until about two hundred years ago, women as a group were distinctively subordinate. Moreover, the finding that one is obliged to draw from Chowdbury and Nelson (1994), as cited, is that they are still so. Some anthropological and historical material dealing with gender roles, however, suggests a wider variety of conditions. Political scientists may need be sure of the bases on which they are not grounding analysis. In traditional Ashanti society, for example, while no equivalent notion of “democracy” existed, there still were well defined customary roles within which people acted. Autocracy was not the norm (Busia 1951); nor was straightforward female subordination. Among the Ashanti, there were times when the consent of “female monarch,” translated as “queen-mother,” was essential for legitimation.

In this matrilineal society, the queen-mother performed the function of deciding which young men were eligible for chieftaincy. And the queen-mother had the duty to advise the chief, and to offer reproof even beyond the advice of the chief’s councilors. In the nineteenth century, something changed. What happened and why deserves study. At present, historical analysis does not appear to be an important ingredient in the political science scholarship on the status of women, any more than it is in most other aspects of political science. There is literature on argument and doctrine, and famous figures, as in the case of Mary Wollstonecraft (Sapiro, 1992).

The nineteenth-century women’s suffrage movement began with a commitment to social and philosophical radicalism. In the USA, Elizabeth Cady Stanton’s overt rebellion against subordination was against her own subordination to men in

Abolitionist meetings. Over time, as women suffragists picked up other support, they also broadened their appeals.

For a time, the right to vote came to be defined as the crucial women's issue (Ostrogorski [1980] 1893). Why does an apparently settled pattern, of long duration, change? Ostrogorski (1980), writing in 1893 attributes it to the diffusion of "natural right" ideas from the French Revolution (1980: xii). Diffusion of ideas, public opinion clamor, and legislation follow: "In the politics of some countries the rights of women obtain, for the sake of the party game, something like a negotiable value on 'Change, they are quoted, they are speculated upon, some with hope, by others with dread of their coming before long to rule the market" (1980: xiii).

As with other groups, the women's rights leaders calculated the costs and benefits of alliances, especially those with other excluded populations. The language of rights for women had come into American speech as early as the late nineteenth century, as the much cited correspondence between John Adams and Abigail Adams serves to show. But women's suffrage as a social movement shows the adaptation of excluded groups, in this case women, to the norms and requirements of dominant groups. The women's suffrage movement came directly out of Abolitionism, with a rebellion against women's exclusion from meetings to decide what to do about slavery.

In this rebellion, the women suffragists had the symbolic support of Frederick Douglass. But as time passed, and suffrage came into more open and acceptable political discussion, suffragists did not further attach to their own cause the weakening political causes of black citizenship. At the beginning the twentieth century, Chapman Catt did not hesitate to move away from an anti-racism stance (Fowler, 139), for example. And other women's rights leaders during that era cooperated with racism in the South.

Within twenty-five years of the time when Ostrogorski wrote, women's suffrage had come to Britain. The United States had the "Susan B. Anthony Amendment" on the national agenda. The political scientist P. Orman Ray could write of the extension of women's suffrage in a number of countries in Europe, the white countries of the British Empire, and the United States." Ray was too cautious to forecast "early ratification by the requisite number of States" (Ray, 1919: 238). The Nineteenth Amendment was adopted in 1919 and ratified in 1920 (Brown 1995: 2175–204; Clift 2003: 155–80; Fowler 136–42).

Thereafter, the logical questions concern other issues that are logically contingent. What happened with customary barriers to office holding, even though there were no formal-legal barriers to voting, once the Nineteenth Amendment was adopted?

What have been the broad changes in social customs and in expanding the elite reservoir with regard to women? What has happened regarding changes in policy content on gender specific matters, or simply on those matters where women's attitudes differ broadly from those of men?

The Burns (2002) analysis is that political science analysis has oriented itself to sex differences and how they work in institutional settings (2002: 470), and to rules in institutions and how they affect what women do. In her view, political science has, on its agenda of unfinished work, a good deal on sex segregation of institutions and role differentiation, and what this does to constrain opportunities for women.

By Burns's account the existing literature deals largely with the women's movement as a movement grounded in prior networks (2002: 473). That literature is also oriented to the study of public opinion (2002: 476), and is (in her words) "consumed" by a focus on difference in the attitudes of men and women on a variety of subjects. (Pippa Norris (1997) presents further analysis and commentary consistent with the same point. Note especially Mills, in that volume, 41–55.) Burns further reports that existing research has a strong focus on participation and civic engagement (2002: 479), with a variety of explanations for a lower level of participation by women, compared to men.

Finally, she sums up a variety of studies of women as policy makers, which she distinctly refers to as "legislators." (For still newer material in twenty cases outside the United States, see Galligan and Tremblay 2005.) Most research focuses on two issues: What do women officeholders seek and change? Do they face discrimination in their office holding roles, compared to men in those roles?

These issues belong in the arena, for the most part, of what Chowdbury and Nelson (1994) characterize as women's exclusion from "formal politics." Their report is that "At the end of 1990, only 6 of the 159 countries represented in the United Nations had women as chief executives. In nearly 100 countries men held all the senior and deputy ministerial positions in 1987–88" (Chowbury and Nelson 1994: 14).

While the questions can be asked on a worldwide basis, it appears that actual behavior being studied differs sharply between the United States and Europe, and the rest of the world. According to the literature, wide gaps appeared between women in the USA and Western Europe and women in Central and Eastern Europe with regard to the importance of a female demographic presence in government (Montgomery 2003: 1, 3). Moreover, once this is grasped, the new research, with a great deal of technical study of election systems, is about European countries, not about Russia or the other countries that emerged from the former Soviet Union.

Social rules about marriage, divorce, childbearing, childreading, whether to work for whom and on what terms, and about the inheritance, holding, use, and transfer of property are quite fundamental. In Lasswellian terms, these encompass welfare values (well-being, wealth, skill, and enlightenment) and deference values (being taken into consideration) (Lasswell and Kaplan 1963). On some of these underlying social rules (other than the abortion controversy) it seems that little appears frequently in the political science research about the United States or Europe.

These issues, however, have a different significance elsewhere. In Nigeria, women traders have had an independent role, and at least one contemporary writer has expressed the desire that women not lose the traditional spaces for their trading roles (Amadiume 2000). Reports on some of the Nigerian peoples (the Igbo) show female political roles in far more substantive and subtle ways (Okonjo 1999: 519–20). Whether to work, for whom, and on what terms has reportedly been demonstrated in the Nicaraguan revolutionary underground when a woman refused to do her squad leader's laundry. He prevailed upon her to do so, as it would embarrass him and undermine his persuasive authority with peasants if they saw him doing his own washing. But he never again asked (Luciak 2001: 19).

Mounira Charrad, a sociologist, reports on changes in, or the maintenance of, traditional family law, not so much as an outgrowth of women's issues per se, but for strategies of building state power (Charrad 2001: 237–8).

From the point of view of the politics of inclusion and exclusion, and of the role of institutions, it is intellectually imperative to seek a model that incorporates a broader stretch of history. In principle, it would be desirable to incorporate a broader stretch in the study of gender and politics. The existing literature does not support such an analysis. Thus, we return to the hypothesis that the counter-attack is in principle pertinent. It is not possible, on the basis of the existing literature, fully to accept this hypothesis, and it is surely not possible to disclaim it.

6.3 Case 2: African-American Case: The Hypothesis of the Counter-Attack

It is possible to do a little better on the subject of the African-American population, to which we turn now. Discussion of the African-American case is warranted for two reasons. There is no advanced industrial democracy, except perhaps Australia with the Aborigines, in which inclusion and exclusion has had a more pronounced form. Yet the experience is also more complex than is generally understood by scholars or attentive lay persons. Political science, like political journalism, focuses upon the African-American civil rights movement in a quite concentrated period. Basically, it has built an image around the ten-year career of Martin Luther King, Jr., as a public figure. That is, from the Montgomery bus boycott of 1958 until his assassination in 1968. It especially focuses upon the seven years of greatest success, ending in the adoption of the Voting Rights Act of 1965. "We Shall Overcome" has become a global hymn.

The United States did not begin with a concept that made the institutionalized racism of the twentieth century a forgone conclusion. It is doubtful to say that "not only did the Declaration of Independence not include slaves but the Constitution

recognized slavery” (Rankin 243, n. 1) There is no question that the United States was a slaveholding society (1789–1861) (Holden 1994: 2). But the same slaveholding society began with a system in which free African franchise existed and, in fact, was sometimes used, in which some held the expectation that slavery had been put on “the course of ultimate extinction,” and would in due course come to argue that it was unconstitutional (Mellen 1973; Henry 1914). Congress reflected these interests around slaveholding, containing members both in favor of slaveholding and averse to slaveholding. The very first Congress, elected in 1788, contained at least twenty members who had been in the Philadelphia Convention (Franklin 1995). These twenty equal half the number of the final Convention delegates. This first Congress “that did so much in setting precedents and patterns for the future and that defined who could become a citizen of the United States” and “[n]ot one raised any objection to barring free blacks from becoming naturalized citizens”. (Franklin 1995: 12).

Those averse to the African-American interest were able to launch three major counter-attacks in the span of 200 years. The overall effect was to move from a modest possibility of institutional openness, in the very first Congress, to a period of institutional closure where slavery could not be the subject of a petition. But the struggle in shifting social demand brought a new openness in the Congress just after the Civil War. That, in turn, was shut down by a tight institutional closure from around 1890 until the New Deal year, when openness returned.

Counter-Attack 1 was a drastic assertion of the desirability of slavery as a form of organization. Some interests averse to slaveholding adopted the fiduciary posture. The very first interest group petition to the new Congress was that of the Quakers against slavery (diGiacomantonio 1995: 169–97). They acted on the doctrine that Africans, like others in the United States, were presumed entitled to freedom. Some constitutional ratifiers had deemed slavery an unfortunate exception to be attenuated by time and law (Elliot’s Debates). Congress came to a major forum in which these issues were expounded, and a major arena in which they were fought.

This was the first of a set of petitions for the abolition of slavery and/or the slave trade. The Congressional committee reported that from the nature of the matters contained in those memorials (petitions from the Quakers) they (the committee) were induced to examine the powers vested in Congress, under the present constitution, (H. Doc. #13, *Abolition of Slavery*, March 5, 1790: 12) to the abolition of slavery. The report is written as if to an audience that could plausibly contemplate the abolition of slavery. The report took note that the Constitution provided that importation of slaves could not be prohibited before 1808. “Congress, by a fair construction of the constitution, are equally restrained from interfering in the emancipation of slaves who already are within any of the... States.”

Political learning took place at once. The fiduciaries (Quakers) learned that Congress could only debate restrictions on how the slave trade was conducted. The Quakers persisted in their interest, some of them some petitioning Congress to adopt a law “prohibiting the trade carried on by citizens of the United States, for the purpose of supplying slaves to foreign nations, and to prevent foreigners from fitting out vessels of the slave trade in the ports of the United States” (US Congress. House Document 44, February 11, 1794). The fiduciary interventions were futile, except in as much as they played a similar role as theatrical shows that might influence, or even generate, public opinion. Weak interests, represented only by fiduciaries, would fall before strong interests, at least in the near term. The fiduciaries lost. Their effort anticipated the struggle over “the gag rule,” which addressed whether Congress could even receive a petition on the subject of slavery. The fight against the gag rule is famous. The leading protagonist of this struggle was the former President and then member of the House of Representatives John Quincy Adams (Miller 1996).

After the Civil War, the Union-maintaining and power-seeking Republicans found it imperative to extend the franchise to the freed Africans. This set the terms for the second counter-attack.

Counter-attack 2, in the last quarter of the century, *was substantially successful in limiting the effect of the Civil War*. It led to the establishment of white supremacy as public policy that Congress would accept as fact. In the end, those who wanted to defend the freed slaves’ franchise, as a means of defending both the Republican party and the Union, could not win. The Civil War Amendments were accepted as verbal formalities. Federal armed force was not used to any notable degree. Those private persons who wished by force to exclude blacks were free to do so. This implicates federalism.

The experience of these sixty-odd years was the reopening of the question of white supremacy—and the cognate question of blacks’ rights in the late 1920s or early 1930s. The concept, but not the actual policy, of acceptance of white supremacy was overthrown in the 1950s. White supremacy as policy was rejected by the Congress in the 1960s.

When African-Americans began to arrive in Congress, the question of their access to privileges was apparently problematic. There were but two Congresses (the 46th Congress, convening in 1881 and the 50th Congress, convening in 1889) between 1869 and 1901, when there were no African-American members at all. The question of their own access to privilege was also necessarily a question about their ability to provide effective representation.

Government was divided for most of the time between the end of the Civil War and the beginning of the twentieth century. The last notable effort to directly protect the franchise was the Federal Elections Bill of 1890, a bill similar in concept to the Voting Rights Act of 1965. The defeat of this bill should probably be accounted one of the major events of the decade. Divided government plus an

American *violencia* resulted in a victory, in Congress and outside, that could be seen by 1890. It was fully consolidated by the first decade of the twentieth century. The legislative institution was white supremacy's stronghold.

A challenge to white supremacy would be forthcoming, but not its overthrow. This would not happen for more than seventy years until the mid 1960s. Challenges began after 1934 through the imperatives of another institution, the political party. 1934 was the first year that African-Americans in the north, who could vote, began to switch to the Democrats. African-Americans in the south could generally still not vote. In 1935, evidence of these realigning effects among voting African-Americans began to be visible. A large number of anti-lynching bills were suddenly being introduced in the Congress. Northern Democrats, for the first time, sponsored bills to protect African-Americans from abuses and from persecution.

Racial exclusion began to be challenged by racial inclusion issues, restated as "civil rights." The "civil rights issue" was, by 1948, admitted to be vital in Democratic presidential politics. However, it would be another sixteen years (1964) before Congress passed the Civil Rights Act.

The absolutely predictable Southern Democratic filibuster could never be broken, except with Republican cooperation. Republican cooperation, within the convoluted world of political maneuver, was possible. But the principle of the counter-attack is always in play, unless the issues are subject to resolution in civil society. The counter-attack will make use of institutional procedures when these are both available and favorable and seek to circumvent institutions when they are not. The civil rights movement in the United States made ample use of both strategies—peaceful but extra-institutional demonstrations and sit-ins when excluded from institutional possibilities and the use of the judicial system as a way to break through the political logjam.

Counter-attack 3 emerged as civil rights issues were concerned, those issues served as a wedge between Northern Democrats who favored legislation and Southern Democrats to whom it was absolutely unacceptable. The Goldwater campaign was the vehicle by which active racism in the South expressed itself. A recent historian, in a rather full biography, refers to Goldwater's consistent advocacy of conservative principles. "Ignoring power realities in the South and remaining consistent with his states' rights stand, Goldwater deemed segregation a problem best handled at the community level" (Goldberg 1995: 140). Goldwater could not have been so far removed from reality as to know what handling at the "community level" meant in a world of violence against African-Americans and those supporting their cause.

Goldwater, more than George Wallace, who in old age recanted his earlier politics, made the Republican party the party of the self-conscious *white* voters in the Deep South. Economic change is a powerful component, but without the racial struggle, the Republican domination of southern politics would never have occurred.

7 THE INSTITUTION OF FEDERALISM

Institutional closure may also present itself in the case of federalism. Federalism in the United States is often discussed as if the preservation of “the states” or the protection of state authority had some obvious theoretical merit. It is also sometimes discussed as if the preservation of state authority was always among the principal aims of the writers of the 1787 Constitution. The historical evidence contradicts this view and serves to sustain this pristine version of principled motivation for the institutions of federalism and state prerogative. Federalism is often discussed as if there were some objective and meritorious principle of freedom that justifies it. It is also discussed as if there were some efficiency principle, under which some things, inherently “appropriate” to state jurisdiction, are left to state governments.

In 1787 Virginia was the largest state. The Virginia delegation went to the 1787 Constitutional Convention with a plan for a unicameral federal legislature, with strong authority over the states (Robertson 2005: 243–67; Brant 1950). Viewed from another angle, this is not a surprise. In reality, federalism is a system of power typically predicated—as all systems of power are—on serving or accommodating particular interests—or, in other words, keeping some people in and others out (Riker: 1964: 10).

There can be many results attributable to federal systems. One clear consequence of federalism in the United States, though, was that blacks were a subject population under the rule of the states. Insofar as the African-American experience is concerned, states were primarily constellations of interests based upon the exploitation of the Africans. African-Americans were always losers under the rules of that system. Federalism as a constitutional process allowed the groups within state politics to do to other groups whatever they pleased, with very little limitation. Federalism was, in practice, an institutional arrangement that made the United States safe for chattel slavery.

In the contemporary United States, there are large experiential tests to be met. What is the meaning of the election of L. Douglas Wilder, an African-American politician, as Governor of Virginia? In what sense is voting still so racially polarized that most African-American candidates would lose if most of the voters are white? A social scientist can extend this question with other questions about representation, namely African-American representation in governors’ cabinets, among senior civil servants, on courts, and in local government offices.

By the 1990s African-American representation in local government had grown substantially. But the capacity of many of those governments had become problematic and are recurrently so. Where African-American politicians have risen to top political leadership positions in local politics, they are often in command of an empty vessel—cities and other local governments that are short

on investment capital, weak in their tax base, and faced with problems of poverty, poor educational systems, and higher crime rates. Such problems may be local, but they can rarely be solved locally. The irony is that inclusion of African-Americans in the elite reservoir grows, especially if they do not have to seek office where constituencies are predominantly white. Persons of color may enter in other ways—appointive and bureaucratic offices, for instance—while social marginalization of African-Americans may be relatively unaffected.

8 PREMISES ABOUT THE PROCESS OF INCLUSION

What kind of claim are those seeking inclusion making? What claims are being made? One form of claim is the assertion of some legal right. The claim of legal right may be highly effective in situations where the norms of “right,” both legal and moral are generally accepted. Such claims were staked by African-Americans through the judicial system by the 1940s. These claims against the segregationist system played an increasingly large role in the articulation of claims that the civil rights movement of the 1950s and 1960s could make to white audiences.

The actor seeking inclusion can also be in the position of being a claimant of rectitude. One may perfectly well perceive that one lacks power, but seek to influence some other audience by asserting oneself as the moral conscience, thus claiming moral rectitude and embarrassing the other party on the assumption that he or she also has a public need to display evidence of a moral conscience to which an appeal is possible. Violence toward, and even murders of, African-American civil rights activists galvanized support among some whites on the basis of moral claims, making the civil rights struggle a moral as well as a legal cause.

A third claim is that attention to one’s own need fits the interest of the other party, notably its financial interest, although some other political interest is also plausible. This can be connected to a kind of “fact of life” claim, such as when actor X seeks to communicate to actor Y that X’s presence is a “fact of life” which it is inconvenient to ignore. The revolt against “back of the bus” segregated seating (or, more often, standing) brought the power of the purse to bear in the bus boycott in Montgomery, Alabama in 1955, an event made famous by Rosa Parks who would not concede the necessity of her standing in the back of the bus while seats were available in the front. The purpose of the boycott was to bring financial pressure against the bus company as was the objective of other commercial boycotts against

those businesses that maintained patterns of segregation or discriminated in their work force. Legality, morality, and mutual self-interest are all strategies in the struggle for inclusion.

9 INSTITUTIONS AND THE PROBLEM OF EXCLUSION

No serious empirical theory of politics can work on the assumption that what democratic liberals take as normatively desirable is what will always occur. That recognition is inherent in the hypothesis of the counter-attack. What degree of exclusion is possible and/or probable? There is prevention of entry, where the elite can say “you may not come in.” In principle there can be some kind of conditional admission, with restrictions as to what kind of life can be lived, work to be done, and so forth. Exclusion is, by definition, unseemly for political scientists who study “democracy,” “liberalism,” or “constitutionalism.” Nonetheless, students of political science cannot escape the question of exclusion as an ever present possibility.

Expulsion, too, is an ever present possibility. Extermination is one of the forms of expulsion, and is so utterly repellent that we have no way of comprehending it. The ultimate objects may be people who have already been incorporated, and now are excluded. Extermination has been invoked verbally, and sometimes in actual practice, the United States and in Australia, against the Native Americans and the Aborigines respectively. The folklore that “the only good Indian is a dead Indian” was not for the movies only, but was sometimes expressed in tactics of extermination (Wellman 1959).

Peter J. G. Pulzer makes the case that anti-Semitism reached its most virulent intensity after a great deal of emancipation had taken place for Jews. German Jews were a highly cultivated population. In the twentieth century, Jews had come far from old restrictions, to the point that Walther Rathenau was Foreign Minister at his assassination in 1922.

Both the Holocaust and the massive killings that took place in Eastern Africa in 1994 would fit the pattern of expulsion via extermination. So would the efforts at “ethnic cleansing” in the Balkans. In parallel, the savage inter-ethnic slaughter in Rwanda by some Hutu factions against Tutsis was one of killings amongst groups, the members of which were inter-married with each other.

In general terms, it is possible to identify the most significant criteria of exclusion. Those to be excluded from “the people” are those who are considered

repulsive for what they do, have done, or would do, of their own will, which they could choose to alter if they were perceived to be morally fit to do so. Sex offenders under contemporary American criminal law are so regarded even when they return to civil society. They are, in essence, branded with a scarlet letter as morally unfit. Some expulsions and exterminations, however, are also predicated on physical differences about which nothing can be done. Moral deficiencies and other frequently fatal shortcomings are then postulated as derivative qualities of physical difference. Such was, but hardly exclusively, the basis of the virulently racist Nazi ideology.

When the American Revolutionary War occurred, a substantial share of the population remained attached to the Crown, for emotional reasons or for practical ones. New York was a center of loyalism, as was South Carolina (Wertenbaker 1948). Overall, 15 per cent of the whole American population at the time refused to accept the independence movement (Elster 2004: 51). They were thus obliged to leave for Canada or other parts of the British Empire.

9.1 Looking Forward

If we begin with the Hobbesian problem as stated, and with the core concept that institutions are inherently exclusionary, our approach to institutions is somewhat that of oncologists to the human body. Analytically, we are aware of danger and seek to increase the opportunities of hope. Thus, we identify three big remaining issues which concern learning enough to improve the making and maintaining of commonwealths.

9.1.1 *Intellectual Problem 1*

The disappearance or reduction of exclusion as a general proposition is itself worthy of serious study. That disappearance or reduction in America is known by the term “melting pot.” But is virtually a cliché. It is well known that identification as a Roman Catholic was a barrier to voters’ acceptance of a Presidential candidate until 1960. It is hard now to make the case of serious discrimination, and surely not of exclusion, for either Catholics or Jews in the United States.

What meaning should be attached to the presence of a Jewish leader of the British Tory party (Michael Howard) is also a matter of interest as is that of a female Chancellor in Germany, a system in which women are notoriously under-represented in the elite reservoir. From the point view of theory, how, in fact, does substantial change take place?

9.1.2 *Intellectual Problem 2*

Where do criteria of inclusion and exclusion offer big challenges to the making and maintaining of commonwealths in this, the twenty-first, century?

Consider religion. Norris and Inglehart (2004) offer a worldwide study of religion and politics filled with quantitative data. Their findings run contrary to the Huntington thesis. There were no significant differences between the publics living in the West and in Muslim religious cultures in their approval of how democracy works in practice, their support of democratic ideals, and their approval of strong leadership (Norris and Inglehart 2004: 146).

Why then is religion regarded as a centerpiece for inclusion and exclusion? It is less likely that the type of religion is at issue than the form in which any given one is practiced, probably one reason why an aggregate measure of religion at the societal level will not yield much about political cultural differences. Religion becomes a centerpiece when it is linked with other cultural or class attributes, when its practitioners are stereotyped, when it appears exotic against a host culture, and when there is theological or quasi-theological rule that does not accept religious pluralism.

The case of the rapid pace at which the barriers against women seem to be collapsing is worthy of close study, for it is not obvious why it has happened that way. At the same time, there are no factors that one can foresee that would reverse what is occurring. The significant question concerns the future of gender relations in the world.

9.1.3 *Intellectual Problem 3*

What should be anticipated, given that growing diversity of populations in the rest of the world is a most important phenomenon. Immigration in the United States—as most elsewhere—historically has been good for buyers in labor markets. It has been less good for populations disproportionately located toward the bottom of the social stratification system where most of the immigrants compete in the labor market.

While immigration involves peoples from around the world and penetrates different sectors of the labor market, a substantial change can occur in the relative proportion and historical experiences of minorities in the United States. This has happened before. As a matter of policy, in the late eighteenth century, the desire to attract European settlers was partly to offset dependence on the black slave population.

A similar dynamic was presented in the large post-Civil War European migration into the United States. It repeats itself in the movement of the Spanish-speaking people. This Hispanic population is very diverse. It sometimes racially overlapped with the African-American population. But it is already regarded as the single largest ethnic group of color.

It may be that these two groups will form alliances. It is also plausible that they may be in contest with one another, especially in jockeying for position within the elite reservoir just as earlier European-derived ethnic groups—such as the Irish and Italians—had been. Under what circumstances will institutions conduce to cooperation or to conflict? And to what extent will labor markets as well as laws and increasingly norms, encouraging diversity, allow for positive-sum or zero-sum relations between them?

Students of politics may take note that what is happening in the United States has its counterparts in other immigrant-receiving countries. Inclusion/exclusion for any group was seldom to be taken for granted, as derived from social and cultural habits only. Inclusion/exclusion was also embedded into law, politics, and institutional practice. In Europe, there appears to be a growing cultural divide between Europeans and immigrant populations, particularly those from Muslim countries. To what extent will inclusion be possible and on what terms? To what extent will exclusion and even expulsion be sought? And, if sought, will it be selective or non-selective? To what extent will communal autonomy result in the abrogation of rights, especially women in patriarchal communities, as it did people of African descent under American federalism? To what extent will homogenizing secular policies and institutions (French centralism and secularism, for example) fuel communal resentments or, alternatively, force sectarianism to come to terms with civil law and the secular state, or even force civil law and the secular state to come to terms with deviant practice that it has hitherto been able to contain?

There are no certain answers, but instead many challenges. In such a country as France, for instance, will strategies of forced assimilation or communal accommodation work best? What precisely are the boundaries between social pluralism and the sovereign authority of the state? The liberal democratic view is that negotiating civic peace and inclusion in increasingly diverse settings is the fundamental democratic challenge to which the polity should rise. Karl W. Deutsch (1957) approached the same analytical problem in a study of the historical experience of the integration of countries in the North Atlantic. As he looked at the historical data, Deutsch thought he could analytically reconstruct the conditions for failure. They included, at least, a combination of greater activity by those who had been passive, an increase in ethnic and linguistic differentiation, a reduction in capacity for timely governmental action, and closure of the existing elites. Deutsch (1957) also thought he could see some conditions that were favorable. Among these were: capabilities that allowed each to do something for the other, compatibility of expectations, and mutual predictability and reciprocity in respect.

Are institutions part of the solution or part of the problem? If the hints drawn from Deutsch (which could be restated in Lasswellian deference and welfare terms) are taken seriously, institutions are not irrelevant. The political scientist, coming into that tradition, is likely to say “How we can all get along—whether we wish to or not—is, as Thomas Hobbes observed in rather different language, the fundamental task of political authority, however that authority is imposed.”

But no particular form of institution, in and of itself, guarantees reciprocal adjustment. For students of institutions, this poses the particularly difficult challenge of knowing what adaptations may be helpful. Even more, it poses the difficult challenge of learning what incentives give conflicting parties the motivation to make institutions work rather than to pile up future trouble by ignoring the realities around them. There, finally, the point with which one begins. The liberal democratic motives are not the only ones driving action, and institutions may have values built up in that call for closure rather than inclusion. It is not intellectually useful to assume that the normatively-desired conclusion will be the empirically-attainable result. Ascertaining the greater likelihood is the task of a political science.

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